

UNITED STATES COURT OF APPEALS

**Filed 6/26/96**

TENTH CIRCUIT

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DWIGHT DURAN, LONNIE DURAN,  
SHARON TOWERS, all others similarly  
situated,

Plaintiffs,

PHILLIP CORDOVA,

Movant-Appellant,

vs.

BRUCE KING, Governor; CHARLES  
BECKNELL, Secretary of Criminal  
Justice; LEVI ROMERO, Warden, PNM;  
ROBERT T. MONTOYA, JOSEPH  
LUJAN,

Defendants-Appellees.

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PHILLIP CORDOVA,

Movant-Appellant.

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No. 95-2205  
(D.C. No. CIV 77-721- JB)  
(D.N.M.)

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ORDER AND JUDGMENT\*

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\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. This court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Before SEYMOUR, Chief Judge, KELLY, and LUCERO, Circuit Judges.\*\*

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Mr. Cordova, an inmate appearing pro se and in forma pauperis, appeals from the dismissal of his Motion For Third Party or Joinder. Construing the pleadings liberally, Mr. Cordova sought to intervene as a member of the plaintiff inmate class. The district court determined that Mr. Cordova was not a proper class member and that his claims were barred by res judicata, having been previously raised in an action that was dismissed as frivolous and with prejudice. See Cordova v. Mondragon, No. CIV 94-1143, memo. op. & order (D.N.M. March 7, 1995), affirmed, No. 94-2282, 1995 WL 656984, unpub. order & judgment (10th Cir. Nov. 8, 1995), attached as exs. B & C to Respondent's Answer Brief filed March 16, 1996. Mr. Cordova's motion was thus properly denied on grounds of res judicata. See Allen v. McCurry, 449 U.S. 90, 94 (1980); Klein v. Zavaras, 80 F.3d 432, 434 (10th Cir. 1996).

Mr. Cordova's Notice to the Court is construed as a motion and is DENIED.

AFFIRMED. The mandate shall issue forthwith.

Entered for the Court

Paul J. Kelly, Jr.  
Circuit Judge

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\*\* After examining the briefs and the appellate record, this three-judge panel has determined unanimously that oral argument would not be of material assistance in the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The cause is therefore ordered submitted without oral argument.

